



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,669	02/09/2004	Donald Starr	STA-2.001	1474
22874	7590	08/26/2009		
GANZ LAW, P.C. P O BOX 2200 HILLSBORO, OR 97123			EXAMINER KIM, CHRISTOPHER S	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 08/26/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,669	<b>Applicant(s)</b> STARR, DONALD	
	<b>Examiner</b> Christopher S. Kim	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-47, 49-52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-47, 49-52 and 54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed April 28, 2009 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

3. Applicant elected with traverse of Group IV, Species A in the reply filed on February 5, 2008.

The requirement was made FINAL in the Office action mailed on March 24, 2008.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "swivel support tube telescopically coupled to the interconnecting member" recited in claim 51 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. Claim 51 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 51 recites "a swivel support tube telescopically coupled to the interconnecting member" in lines 1-2. The specification discloses, on page 15, lines 17-19, "...a swivel support tube 104 that is telescopically received in a drive tube (not shown) so that corner sweep unit 102 rotates or is driven about swivel support tube 104 as is known in the art." The disclosure as originally filed does not appear to disclose the swivel support tube being telescopically coupled to the interconnecting member.

6. Claims 46, 47, 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 46 recites the limitation "side by side dual wheels" in line 2. It appears to be a double inclusion of the "at least one wheel" recited in claim 44, line 4.

Claim 47 recites the limitation "at least one wheel" in line 2. It appears to be a double inclusion of the "at least one wheel" recited in claim 44, line 4.

Regarding claim 52, the preamble is directed to a wheel assembly but the body of the claim further recites limitations directed the tower. The preamble is directed to a subcombination (a wheel assembly) but the claim encompasses a combination (a wheel assembly and tower). Applicant is reminded of the election of Group IV (wheel assembly), Species A in the reply filed on February 5, 2008.

***Claim Rejections - 35 USC § 102***

7. Claims 44, 49, 50, 54 are rejected under 35 U.S.C. 102(b) as being anticipated by De Long, Jr. et al. (3,647,139).

De Long discloses a wheel assembly comprising:

a tire assembly comprising:

an axle 59;

at least one wheel 58 having a tire;

a support frame having:

two opposite arms 56a;

an interconnecting member (between the top of legs 56a and bottom of I-beam member 35; see figures 15 and 16);

a gear box 60, 98, 99;

a force transfer member 35.

Regarding claim 54, the recitation "the support frame is adjustable" merely requires the ability to adjust. De Long's support frame is adjustable by using different size members.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 45 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Long, Jr. et al. (3,647,139) in view of Wagner (3,166,089).

De Long discloses the limitations of the claimed invention with the exception of the interconnecting member comprising two telescoping members. Wagner teaches a beam 38, 40 made of two telescoping members. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have made any element of De Long's support frame of two telescoping elements as taught by Wagner for adjustability.

10. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Long, Jr. et al. (3,647,139) in view of Wagner (3,166,089) as applied to claim 45 above, and further in view of McMurray (3,726,478).

De Long in view of Wagner discloses the limitations of the claimed invention with the exception of dual wheels. McMurray teaches dual wheels 29. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided side by side dual wheels to the device of De Long in view of Wagner as taught by McMurray to support increased weight.

11. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Long, Jr. et al. (3,647,139) in view of Wagner (3,166,089) as applied to claim 45 above, and further in view of Hipkins (2,008,210).

De Long in view of Wagner discloses the limitations of the claimed invention with the exception of dual wheels and belt. Hipkins teaches dual wheels 11 and belt 12. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided side by side dual wheels and/or belt to the device of De Long in view of Wagner as taught by Hipkins to increase traction.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 44-47, 49-52 and 54 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. Kim/  
Primary Examiner, Art Unit 3752

CK